

REMARKS

This application is amended in a manner to place it condition for allowance.

Status of the Claims

Claims 1-16 are amended as to form so as to clarify the claimed invention. Claim 1 was further amended to clarify the auto-expandable element, which is described, for example, at page 7 line 3, page 9 lines 1-5, and Figure 11 of the specification. It is believed that no new matter has been added by the amendments.

Claims 1-16 are pending.

Claim Objections

The Official Action objected to the claims for describing the claimed invention as a "device" in the claims. The preamble of each claim has been amended to describe the invention as a "system", as suggested in the Official Action. Applicant thanks the Examiner for this suggestion.

Therefore, withdrawal of the objection is respectfully requested.

Claim Rejections- 35 USC §112

Claims 1-16 were rejected under 35 USC §112, second paragraph, for being indefinite. This rejection is respectfully traversed.

Claim 1 was specifically rejected for the term "the expandable element (24)" in paragraph 4 lacking antecedent basis. Claim 1 is amended so that the claim recites the element (24) in a definite manner, and withdrawal of the rejection is respectfully requested.

Claim Rejections- 35 USC §102(b)

Claims 1-5, 11, 15 and 16 are rejected under 35 USC §102(b) as being anticipated by VARGAS et al. 2002/0042622 ("VARGAS"). This rejection is respectfully traversed.

The system of claim 1 includes an implant (10) with an auto-expandable element (24) which presses against the internal wall of the outer envelope (2), and a means for translation of said implant (10) in relation to the outer envelope (2) is one such that the auto-expandable element (24) is in contact with the internal wall of the nose (14) to open out the segments (15a, 15b, 15c, 15d).

This structure is illustrated by Figure 11 in view of Figure 14 of the present specification:

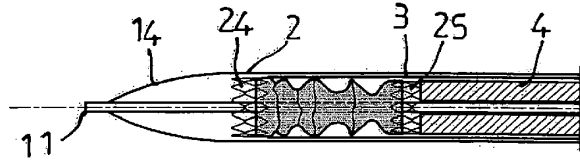


Fig.11

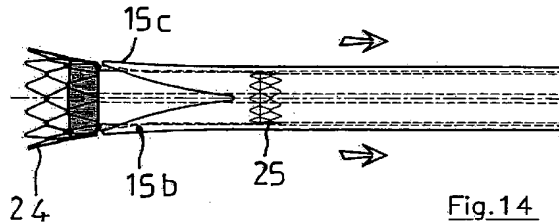


Fig.14

VARGAS, however, fails to disclose the claimed structural relationship between an expandable element and outer sleeve and nose section that is opened by the expandable element, as shown by Figures 5 and 6 of VARGAS:

FIG. 5

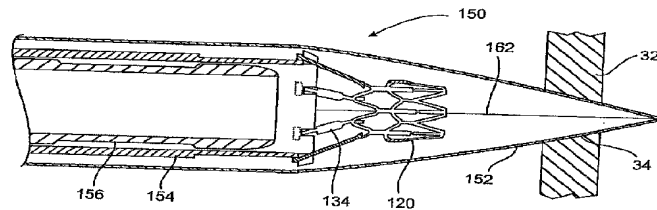
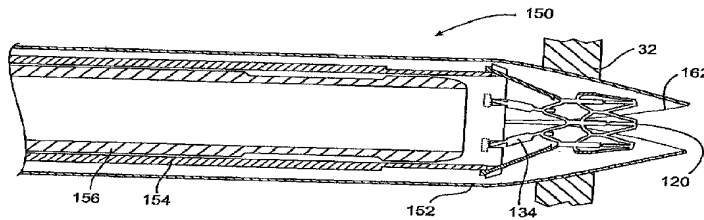


FIG. 6



The trocar (152) of VARGAS has a tapered distal end with slots for its opening. The proximal end of an anastomosis device (120) is tied to a holder tube (154).

This anastomosis device (120), however, is not expanded to press against the internal wall of the trocar (152), as seen

Figure 5, nor is it used to open the tapered distal end, as seen in Figure 6.

Rather, "the advancing of the holder tube 154 causes the distal end of the trocar (152) to be forced to spread apart". (See, e.g., paragraph [0062] of VARGAS). That is, it is the holder tube (154) is pressed against the internal wall, e.g., as illustrated in figure 6 above.

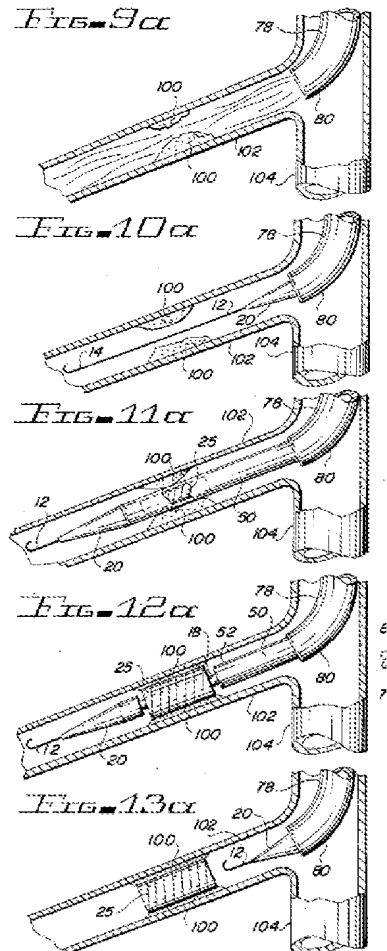
Moreover, it is only after the tapered distal end has been opened by the holder tube (154) that the anastomosis device (120) is expanded, i.e., by an extender tube (156). VARGAS discloses that "Once the anastomosis device 120 is in position...the inner annular flange 20 is deployed by advancing the expander tube 156 into the anastomosis device" (See, e.g., paragraph [0062]).

Therefore, VARGAS fails to disclose an auto-expandable element and the claimed structural relationship between an auto-expandable element and a nose section as described in claim 1, and withdrawal of the rejection is respectfully requested.

Claims 1-16 are rejected under 35 USC §103(a) as being unpatentable over GARZA et al. US 4,665,918 ("GARZA") in view of MARTINEZ et al. US 5,593,412 ("MARTINEZ"). This rejection is respectfully traversed.

GARZA discloses a device for the introduction of an endovascular prosthesis. The prosthesis (100) is auto-expandable, and the device includes a cone section (20).

However, the prosthesis is not in contact with an internal wall, nor does it open out any segment of the cone. Instead, the cone section passes through the prosthesis:



MARTINEZ discloses a stent delivery apparatus. The stent (24) is expanded by a balloon (20). This balloon is attached to a wire (22) that opens the end of an outer sheath (8), as shown below:

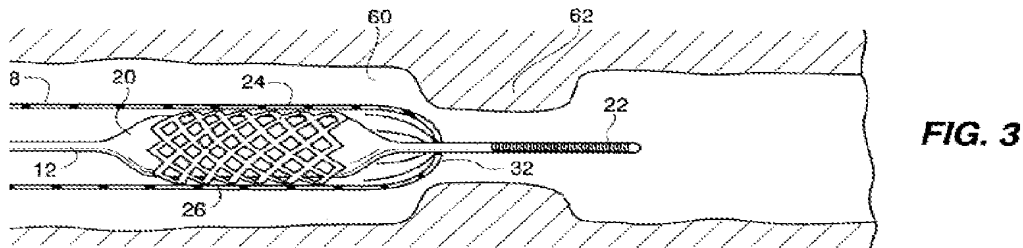


FIG. 3

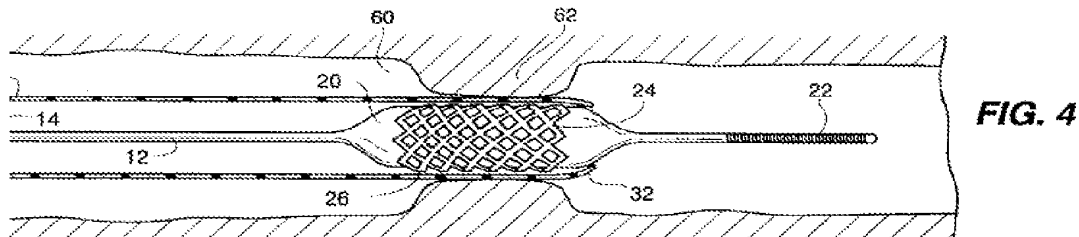


FIG. 4

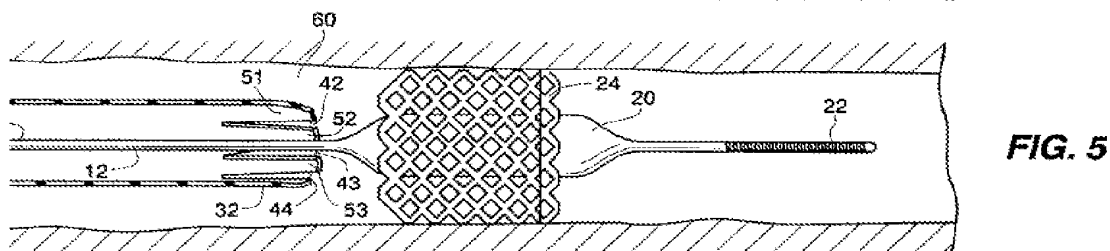


FIG. 5

The position of the Official Action was that it would have been obvious to include an outer envelope on GARZA with a tapered end piece with the structures suggested by MARTINEZ.

However, the combination does not teach the claimed invention. For example, the system of claim 1, as shown in Figures 11 and 14 with respect to the anticipation rejection, includes an implant (10) with an auto-expandable element (24) which presses against the internal wall of an outer envelope (2), and a means for translation of said implant (10) in relation to the outer envelope (2) is one such that the auto-expandable element (24) is in contact with the internal wall of the nose (14) of the outer sleeve to open out the outer sleeve segments (15a, 15b, 15c, 15d).

The combination, however, would result in the prosthesis of GARZA in contact with an internal wall of an inner envelope, and the wire (12), followed by the internal nose section of GARZA, would contact the inner wall of the outer envelope to open the outer envelope, i.e., not an auto-expandable element.

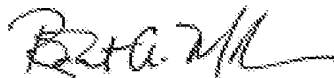
Therefore, the proposed combination cannot render obvious the claimed invention, and withdrawal of the rejection is respectfully requested.

In view of the amendment to the claims and the foregoing remarks, the present application is in condition for allowance at the time of the next Official action. Allowance and passage to issue on that basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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